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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/341,539 | 10/12/1999 | JEAN-PHILIPPE DESLYS | 045636-5027 | 5256 |
| 9629 | 7590 | 01/28/2004 | EXAMINER | |
| MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004 | | | PARKIN, JEFFREY S | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1648 | |

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/341,539

Applicant(s)

DESLYS ET AL.

Examiner

Jeffrey S. Parkin, Ph.D.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 02 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8, 12, 13 and 15-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 and 15 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8, 12, 13, and 16-26 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Response to Amendment

Status of the Claims

1. Acknowledgement is hereby made of receipt and entry of the amendment filed 29 October, 2003, wherein claims 8 and 12 were amended and new claims 22-26 submitted. Claims 1-6 and 15 stand withdrawn from further consideration by the examiner, pursuant to 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention. Claims 8, 12, 13, and 16-26 are currently under examination.

35 U.S.C. § 112, Second Paragraph

2. The previous rejection of claims 8, 12, 13, and 16-21 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, is hereby withdrawn in response to applicants' amendment.

Ex parte Quayle


3. This application is now in condition for allowance except for the presence of claims 1-6 and 15, drawn to an invention nonelected with traverse. A complete response to the Office action must include cancellation of the non-elected claims or other appropriate action (refer to 37 C.F.R. § 1.144 and M.P.E.P. § 821.01). Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213. A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this action.

Correspondence

4. Correspondence related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Official communications should be

5 directed toward the following Group 1600 fax number: (703) 872-
9306. Any inquiry concerning this communication should be directed
to Jeffrey S. Parkin, Ph.D., whose telephone number is (703) 308-
2227. The examiner can normally be reached Monday through Thursday
10 from 8:30 AM to 6:00 PM. A message may be left on the examiner's
voice mail service. If attempts to reach the examiner are
unsuccessful, the examiner's supervisors, Laurie Scheiner or James
Housel, can be reached at (703) 308-1122 or (703) 308-4027,
respectively. Any inquiry of a general nature or relating to the
status of this application should be directed to the Group 1600
receptionist whose telephone number is (703) 308-0196.

Respectfully,


Jeffrey S. Parkin, Ph.D.
Patent Examiner
Art Unit 1648

24 January, 2004


JAMES HOUSEL 1/26/04
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600